

1 A bill to be entitled
2 An act relating to public records; amending s.
3 943.0584, F.S., relating to nonjudicial expunction of
4 criminal history records; providing an exemption from
5 public records requirements for an adult's or minor's
6 specified records that have been approved for
7 nonjudicial expunction pursuant to s. 943.0584, F.S.;
8 providing for future legislative review and repeal of
9 the exemption; amending s. 943.0585, F.S., relating
10 to court-ordered expunction of criminal history
11 records; providing an exemption from public records
12 requirements for an adult's or minor's criminal
13 history records related to a withhold of adjudication
14 that have been expunged pursuant to s. 943.0585, F.S.;
15 providing for future legislative review and repeal of
16 the exemption; amending s. 943.059, F.S., relating to
17 nonjudicial sealing of criminal history records;
18 providing an exemption from public records
19 requirements for an adult's or minor's record related
20 to a withhold of adjudication or nonviolent
21 misdemeanor conviction that has been approved for a
22 nonjudicial sealing pursuant to s. 943.059, F.S.;
23 providing for future legislative review and repeal of
24 the exemption; providing a statement of public
25 necessity; providing a contingent effective date.
26

27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Paragraph (a) of subsection (7) is renumbered
 30 as paragraph (b) and a new paragraph (a) and (c) are added to
 31 subsection (7) of section 943.0584, Florida Statutes, as created
 32 by PCB CRJS 15-05, to read:

33 943.0584 Nonjudicial expunction of criminal history
 34 records.-

35 (6) EFFECT OF A NONJUDICIAL EXPUNCTION.-

36 (a) Any criminal history record of an adult or a minor
 37 described in paragraph (2) which is approved for nonjudicial
 38 expunction by the department pursuant to this section is
 39 confidential and exempt from the provisions of s. 119.07(1) and
 40 s. 24(a), Art. I of the State Constitution.

41 (c) This subsection is subject to the Open Government
 42 Sunset Review Act in accordance with s. 119.15 and shall stand
 43 repealed on October 2, 2020, unless reviewed and saved from
 44 repeal through reenactment by the Legislature.

45 Section 2. Paragraphs (b), (c), and (d) of subsection (7)
 46 are renumbered as paragraphs (c), (d), and (f), and new
 47 paragraphs (b) and (e) are added to subsection (7) of section
 48 943.0585, Florida Statutes, as amended by PCB CRJS 15-05, to
 49 read:

50 943.0585 Court-ordered expunction of criminal history
 51 records.-

52 (7) (b) 1. A criminal history record that is ordered

53 expunged and that is retained by the department is confidential
 54 and exempt from the provisions of s. 119.07(1) and s. 24(a),
 55 Art. I of the State Constitution and is not available to any
 56 person or entity except upon order of a court of competent
 57 jurisdiction. A criminal justice agency may retain a notation
 58 indicating compliance with an order to expunge.

59 2. This paragraph is subject to the Open Government Sunset
 60 Review Act in accordance with s. 119.15 and shall stand repealed
 61 on October 2, 2020, unless reviewed and saved from repeal
 62 through reenactment by the Legislature.

63 (e)1. Information relating to the existence of an expunged
 64 criminal history record which is provided in accordance with
 65 paragraph (c) is confidential and exempt from the provisions of
 66 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

67 2. The existence of a confidential and exempt criminal
 68 history record expunged under this section may be disclosed by
 69 the department to the entities set forth in subparagraphs (c)1.,
 70 4., 5., 6., 7., and 8. for their respective licensing, access
 71 authorization, and employment purposes, and to criminal justice
 72 agencies for their respective criminal justice purposes. It is
 73 unlawful for any employee of an entity set forth in
 74 subparagraphs (c)1., 4., 5., 6., 7., or 8. to disclose
 75 information relating to the existence of an expunged criminal
 76 history record of a person seeking employment, access
 77 authorization, or licensure with such entity or contractor,
 78 except to the person to whom the criminal history record relates

79 or to persons having direct responsibility for employment,
 80 access authorization, or licensure decisions.

81 3. Any person who violates this paragraph commits a
 82 misdemeanor of the first degree, punishable as provided in s.
 83 775.082 or s. 775.083.

84 4. This paragraph is subject to the Open Government Sunset
 85 Review Act in accordance with s. 119.15 and shall stand repealed
 86 on October 2, 2020, unless reviewed and saved from repeal
 87 through reenactment by the Legislature.

88 Section 3. Paragraphs (a), (b), and (c) of subsection (7)
 89 are renumbered as paragraphs (b), (c), and (e), and new
 90 paragraphs (a) and (d) are added to subsection (7) of section
 91 943.059, Florida Statutes, as amended by PCB CRJS 15-05, to
 92 read:

93 943.059 Nonjudicial sealing of criminal history records.-

94 (7) EFFECT OF CRIMINAL HISTORY RECORD SEALING.-

95 (a)1. Any criminal history record of an adult or a minor
 96 described in paragraph (2)(a) which is approved for nonjudicial
 97 sealing by the department pursuant to this section is
 98 confidential and exempt from the provisions of s. 119.07(1) and
 99 s. 24(a), Art. I of the State Constitution.

100 2. A confidential and exempt criminal history record may
 101 be disclosed by the department to:

102 a. The person who is the subject of the record or to the
 103 subject's attorney;

104 b. To a criminal justice agency in the furtherance of its

105 lawful duties and responsibilities, which include conducting a
106 criminal history background check for approval of firearms
107 purchases or transfers as authorized by state or federal law.

108 c. To a judge in the state courts system for the purpose
109 of assisting in case-related decisionmaking responsibilities as
110 set forth in s. 943.053(5).

111 d. To those entities set forth in subparagraphs (c)1., 4.,
112 5., 6., 8., 9., and 10. for their respective licensing, access
113 authorization, and employment purposes.

114 3. This paragraph is subject to the Open Government Sunset
115 Review Act in accordance with s. 119.15 and shall stand repealed
116 on October 2, 2020, unless reviewed and saved from repeal
117 through reenactment by the Legislature.

118 (d) Information relating to the existence of a sealed
119 criminal history record which is provided in accordance with
120 paragraph (b) is confidential and exempt from the provisions of
121 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
122 except that the department shall disclose the sealed criminal
123 history record to the entities set forth in subparagraphs (b)1.,
124 4., 5., 6., 8., 9., and 10. for their respective licensing,
125 access authorization, and employment purposes, and to criminal
126 justice agencies for their respective criminal justice purposes.
127 It is unlawful for any employee of an entity set forth in
128 subparagraphs (b)1., 4., 5., 6., 8., 9., or 10. to disclose
129 information relating to the existence of a sealed criminal
130 history record of a person seeking employment, access

131 authorization, or licensure with such entity or contractor,
 132 except to the person to whom the criminal history record relates
 133 or to persons having direct responsibility for employment,
 134 access authorization, or licensure decisions. Any person who
 135 violates this paragraph commits a misdemeanor of the first
 136 degree, punishable as provided in s. 775.082 or s. 775.083.

137 Section 4. The Legislature finds that it is a public
 138 necessity that the criminal history records of an adult or minor
 139 that have been expunged or sealed be made confidential and
 140 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
 141 Article I of the State Constitution. Many people whose
 142 prosecutions have been abandoned, were found not guilty
 143 subsequent to a jury trial, or who have completed any sanctions
 144 imposed by the court in the criminal or juvenile justice system
 145 have found it difficult to obtain employment. The presence of a
 146 criminal history record in these individuals' past creates an
 147 unnecessary barrier to becoming productive members of society
 148 and can jeopardize individuals' ability to achieve a safe
 149 livelihood. The Legislature therefore finds that it is in the
 150 best interest of the public that persons are given the
 151 opportunity to become contributing members of society.

152 Section 5. This act shall take effect on the same date
 153 that PCB CRJS 15-05 or similar legislation relating to expunging
 154 and sealing of criminal history records takes effect, if such
 155 legislation is adopted in the same legislative session or an
 156 extension thereof and becomes a law.